



Congress of the United States
House of Representatives
Washington, DC 20515

March 31, 2020

Administrator Andrew Wheeler
Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: “COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program”

Dear Administrator Wheeler,

We write with urgent concern about the EPA’s memorandum dated March 26, 2020, detailing the EPA’s plan to suspend enforcement of our country’s environmental protection laws. The COVID-19 pandemic should not be used as an excuse for corporate polluters to enrich themselves by rolling back vital EPA environmental regulations. Thus, we request that you immediately reverse course by rescinding the March 26th guidance, and continue protecting our communities, public health, and the environment while taking care to protect EPA employees.

The March 26th memo announces that EPA is suspending enforcement and compliance assurance temporarily, without providing an end date or a time when the guidance will be lifted. As written, it calls on corporations to self-police, but in the weakest terms possible, asking polluters to “make every effort” to comply with their obligations but excusing such compliance if “not reasonably practicable.” The memo further states that EPA “does not expect to seek penalties for violations of routine compliance monitoring, integrity testing, sampling, laboratory analysis, training, and reporting or certification obligations” if corporations blame their non-compliance on COVID-19. This new policy appears to amount to a nationwide suspension of environmental rules and regulations for the foreseeable future.

Alarming, the March 26th memo does not appear to reserve the EPA’s right to act in the event of an imminent threat to public health, instead stating that EPA will defer to states and work with corporations to minimize or prevent the threat. This follows an earlier action by EPA that dramatically decreased civil and administrative penalty enforcement and criminal prosecutions, the latter of which are at 30-year lows.

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Our home state of Michigan cannot afford an indefinite period of corporate self-regulation. Time and time again the value and importance of EPA’s environmental protection is on display in our great state. Already this year we have seen high-profile EPA responses to toxic green ooze leeching from an illegal

¹Irfan, Umair. *How Trump’s EPA is letting environmental criminals off the hook, in one chart*. Vox (Feb. 27, 2019). Available at <https://www.vox.com/2019/1/16/18183998/epa-andrew-wheeler-environmental-policy-enforcement>.

dump site² and a riverfront dock collapse at a site contaminated with radioactive material³ – these accidents that threaten public health and the environment are precisely what happens when corporations regulate themselves without any additional oversight. This is the wrong time, when our health care system is overloaded and our public health resources are strained, for EPA to retreat from its environmental protection duties.

Corporations that do not meet legal environmental obligations during the COVID-19 pandemic should not be handed a free pass from EPA to pollute our communities if they merely keep a record of their harmful non-compliance. Indeed, some of this country's dirtiest polluters lobbied for this policy change precisely because it will allow them to cut corners, violate our environmental protections, and make more money in the process.⁴ The memo comes at a time when EPA has refused to suspend or push back public comment periods on its various deregulatory actions⁵, putting the interests of corporate polluters ahead of the American people and using the COVID-19 crisis as cover to dramatically expand its radical deregulatory agenda.

We understand the need to keep EPA employees safe, but there are ways to ensure their safety short of suspending the enforcement of all environmental regulations that protect our communities. We urge you to immediately rescind the March 26th enforcement and compliance guidance and publicly commit to continuing to enforce all our nation's environmental rules and regulations as they existed before the COVID-19 crisis.

Sincerely,



Rashida Tlaib
Member of Congress



Andy Levin
Member of Congress

Daniel T. Kildee
Member of Congress

Debbie Dingell
Member of Congress

Brenda Lawrence
Member of Congress

Haley M. Stevens
Member of Congress

Elissa Slotkin
Member of Congress

² Winowiecki, Emma. *Here's what you need to know about the toxic ooze found in Madison Heights*. Michigan Public Radio (Jan. 12, 2020). Available at <https://www.michiganradio.org/post/here-s-what-you-need-know-about-toxic-ooze-found-madison-heights>.

³ Drew, Karen. *EPA coordinator discusses contaminated soil that spilled into Detroit River when dock collapsed*. ClickOnDetroit (Jan. 21, 2020). Available at <https://www.clickondetroit.com/news/local/2020/01/21/epa-coordinator-discusses-contaminated-soil-that-spilled-into-detroit-river-when-dock-collapsed/>.

⁴ Frazin, Rachel. *Oil industry groups ask Trump administration to lessen regulations amid coronavirus*. The Hill (Mar. 23, 2020). Available at <https://thehill.com/policy/energy-environment/489128-oil-industry-group-asks-trump-administration-to-lessen-regulations>.

⁵ Frazin, Rachel. *Advocacy groups push back on 'business as usual' at EPA during coronavirus*. The Hill (Mar. 23, 2020). Available at <https://thehill.com/policy/energy-environment/488753-advocacy-groups-push-back-on-business-as-usual-at-epa-during>.